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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,788

01/17/2006

Gerd Hummel

2918-111

3658

6449

7590

09/02/2009

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

1425 K STREET, N.W.

SUITE 800

WASHINGTON, DC 20005

EXAMINER

NIEBAUER, RONALD T

ART UNIT

PAPER NUMBER

1654

NOTIFICATION DATE

DELIVERY MODE

09/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10564788	1/17/2006	HUMMEL ET AL.	2918-111

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**EXAMINER**

RONALD T. NIEBAUER

ART UNIT	PAPER
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1654

20090824

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The reply filed on 6/11/09 is not fully responsive to the prior restriction requirement because of the following omission(s) or matter(s): while applicant has elected a group (Group II) applicant has not elected a unique species for the condition treated (see last paragraph of page 3 of the restriction requirement of 5/12/09). It is noted that a telephone call was previously made to applicants representative for the election of species but no election was made (see 5/12/09). As set forth in the 5/12/09 correspondence if claims 125-126 are found allowable then rejoinder will take place and an election of patient population for the method claims is necessary to conduct an appropriate search. If applicants do not want rejoinder they should cancel all method claims making the election of species for the condition treated moot. Otherwise applicants should elect a unique species for the condition treated. As set forth on page 5 of the restriction requirement (dated 5/12/09) if applicants traverse that the species are not patentably distinct, applicant should submit evidence or identify such evidence showing the species to be obvious variants or clearly admit on the record that this is the case. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald T. Niebauer whose telephone number is 571-270-3059. The examiner can normally be reached on Monday-Thursday, 7:30am-5:00pm, alt. Friday, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached at 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald T Niebauer/  
Examiner, Art Unit 1654

/Anish Gupta/  
Primary Patent Examiner, Art Unit 1654